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Paper No. 8

In re Application of :
Scott Cann *et al* : DECISION ON PETITION
Application No. 09/893,928 :
Filed: June 28, 2001 :
Attorney Docket No. 039035/215341 :

This is a decision on the petition filed on November 10, 2003 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a timely and proper reply to the Office letter dated March 12, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that the application is not abandoned because a reply to the Office letter in question was timely filed. In support of this allegation, petitioners have furnished a copy of the reply as filed, and a copy of a filing receipt for the reply showing that the reply was in fact received in the Office on May 19, 2003, within the period for reply set in the Office letter dated March 12, 2003. In addition, Office financial records confirm receipt of the \$252.00 claims fee that was filed concurrently with the reply. It is clear from this evidence that the application is not in fact abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the examiner to for action on the reply filed on May 19, 2003.

PETITION GRANTED.


E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

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